



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-BD80

Takes of Marine Mammals Incidental to Specified Activities; Target and Missile Launch Activities at San Nicolas Island, California

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; receipt of application for letter of authorization; request for comments and information.

SUMMARY: NMFS has received a request from the U.S. Navy (Navy), Naval Air Warfare Center Weapons Division (NAWCWD) for authorization to take marine mammals incidental to missile launches from San Nicolas Island (SNI) from June 2014 through January 2019. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is announcing our receipt of the Navy's request for the development and implementation of regulations governing the incidental taking of marine mammals and inviting information, suggestions, and comments on the Navy's application and request.

DATES: Comments and information must be received no later than [insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: Comments on the application should be addressed to Michael Payne, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225. The mailbox address for providing email comments is [ITP.Magliocca@noaa.gov](mailto:ITP.Magliocca@noaa.gov). NMFS is not responsible for e-mail

comments sent to addresses other than the one provided here. Comments sent via e-mail, including all attachments, must not exceed a 10-megabyte file size.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.nmfs.noaa.gov/pr/permits/incidental.htm> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

A copy of the Navy's application may be obtained by visiting the internet at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications>. Documents cited in this notice may also be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Michelle Magliocca, Office of Protected Resources, NMFS, (301) 427-8401.

#### SUPPLEMENTARY INFORMATION:

##### Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 et seq.) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by United States citizens who engage in a specified activity (other than commercial fishing) within a specific geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact

on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as "...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

With respect to military readiness activities, the MMPA defines "harassment" as: "(i) any act that injures or has the significant potential to injure a marine mammal stock in the wild [Level A Harassment]; or (ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered [Level B Harassment]."

#### Summary of Request

On July 24, 2013, NMFS received an application from the Navy requesting regulations governing a Letter of Authorization (LOA) for the take of three species of marine mammals incidental to NAWCWD's missile launches from SNI over 5 years: northern elephant seal (Mirounga angustirostris), Pacific harbor seal (Phoca vitulina), and California sea lion (Zalophus californianus). The Navy is requesting a 5-year LOA proposed to be conducted from 2014 through 2019. These activities are classified as military readiness activities. The Navy states that these activities may expose some of the marine mammals present around SNI to elevated sound levels from up to 40 missile launches per year. The Navy is requesting authorization to take three marine mammal species by Level B harassment.

#### Description of the Specified Activity

In the application submitted to NMFS, the Navy requests authorization to take marine mammals incidental to conducting up to 40 missile launches a year from SNI. A detailed description of the proposed activity, including duration, location, and missiles involved, are provided in the Navy's application (pages 5-14). In summary, NAWCWD plans to continue a launch program for missiles and targets from several launch sites on SNI. Some launches are used for practicing defensive drills and some launches may be conducted for testing new types of targets. Missiles vary from tactical and developmental weapons to target missiles used to test defensive strategies and other weapons systems. Up to 200 missiles may be launched over a 5-year period, but the number and type of launch varies depending on operational needs.

#### Information Solicited

Interested persons may submit information, suggestions, and comments concerning the Navy's request (see ADDRESSES). All input related to the Navy's request and NMFS' role in governing the incidental taking of marine mammals will be considered by NMFS when developing, if appropriate, the most effective regulations governing the issuance of LOAs.

Dated: November 21, 2013.

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Donna S. Wieting,  
Director,  
Office of Protected Resources,  
National Marine Fisheries Service.